

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

RAYMOND JAMES STEPHENS,

Defendant and Appellant.

A126124

(Alameda County
Super. Ct. No. H45373)

Following his plea of no contest to one count of lewd conduct and one count of penetration by foreign object, defendant was sentenced to five years in state prison. Defendant filed a timely notice of appeal, including a statement the appeal is directed toward the trial court's custody credit ruling. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, defendant appeals from the judgment of conviction, asking this court to examine the record to determine if there are any issues deserving of further briefing. Counsel has notified defendant that he can file a supplemental brief with the court. No supplemental brief has been received. Upon review of the record, we conclude no arguable issues are presented for review, and affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND¹

Defendant, age 73 years old, was the victim's trusted next-door neighbor, who her parents knew as "Poppa." When the victim was eight or nine years old, during a

¹ Since the present appeal is taken from a no contest plea, we need only concisely recite the facts pertinent to the underlying conviction as necessary to our limited review on appeal. The facts are taken from the probation report.

sleepover at defendant's house, he molested her by rubbing his penis against her buttocks. Defendant again molested the victim when she was 12 years old and sick at home. Defendant came over ostensibly to check on the victim, and while sitting on the couch watching a movie together, defendant put his hand in her pants stroking her pubic hair and putting his fingers within her labia. In a taped statement, defendant admitted to rubbing his penis against the victim two times when she was nine years old and putting his hand down her pants touching her pubic hair when she was 12.

An information was filed by the Alameda County District Attorney on August 25, 2008, charging defendant with one count of lewd act upon a child (Pen. Code, § 288, subd. (a)), one count of continuous sexual abuse (Pen. Code, § 288.5, subd. (a)), and two counts of penetration by foreign object (Pen. Code, § 289, subd. (j)).

Pursuant to a negotiated disposition, on April 21, 2009, defendant pleaded no contest to one count of lewd act upon a child and one count of penetration by foreign object in exchange for a five-year state prison sentence.

On August 13, 2009, defendant was sentenced to the five-year term, as well as other fines. Defendant was remanded into custody. The trial court initially awarded defendant a total of 14 days of custody credit, but eventually continued the matter to August 25 for a hearing to determine whether defendant was entitled to additional custody credit under Penal Code section 2900.5, for time spent under electronic home monitoring between the filing of the charges and the plea. After conducting a hearing, the court denied defendant's motion for credit for actual days spent under electronic home monitoring. The court, however, increased defendant's presentence credit to 31 days to account for additional time defendant spent in custody following his plea.

DISCUSSION

We have reviewed the record on appeal. By entering a plea of no contest in this matter, defendant admitted the sufficiency of the evidence establishing the crime, and therefore is not entitled to review of any issue going to the question of his guilt. (*People v. Hunter* (2002) 100 Cal.App.4th 37, 42.) Without a certificate of probable cause,

defendant cannot contest the validity of his plea. (Pen. Code, § 1237.5; Cal. Rules of Court, rule 8.304(b)(4)(B).) Defendant did not obtain a certificate of probable cause.

Defendant was represented by counsel throughout the proceedings. We find no indication in the record of ineffective assistance of counsel.

We find no meritorious sentencing issues requiring reversal of the judgment. Defendant is not entitled to additional presentence credits for time spent in an electronic monitoring program. (*People v. Anaya* (2007) 158 Cal.App.4th 608.) While the abstract of judgment fails to reflect that on August 25, 2009, the court awarded defendant 31 days of total custody credit rather than the earlier stated amount of 14 days, an amended abstract of judgment was filed on February 16, 2010, showing custody credits of 31 days.

There are no issues requiring further briefing. The judgment is affirmed.

Margulies, J.

We concur:

Marchiano, P.J.

Banke, J.